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11 JEFFRY G. LOCKE

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In re:

MARK STEPHEN EAGER and  
CHRISTINA JO EAGER

SSN. xxx xx 1274  
xxx xx 5212

Debtor

Case No. 09-14080  
Chapter 7

Hearing: October 22, 2010  
Time: 10:00 a.m.  
Place: 99 South E. Street  
Santa Rosa, CA

**MOTION TO SELL CO-OWNED REAL PROPERTY SUBJECT TO OVERBID**  
(31 and 33 Silvia Drive, Cazadero, California 95421)

TO THE HONORABLE ALAN JAROSLOVSKY, UNITED STATES BANKRUPTCY JUDGE  
AND TO THE DEBTORS AND TO THEIR COUNSEL OF RECORD:

COMES NOW Jeffry G. Locke ("Trustee"), trustee of the above referenced bankruptcy  
estate, and respectfully requests an order authorizing the entered approving the sale of certain real  
property located at 31 and 33 Silvia Drive, Cazadero, California 95421 to Ruth Irene Ochoa for  
the purchase price of \$160,000, "As-Is" "with all faults", and without warranties, or to such higher  
or better offeror(s) as the Trustee may accept (the "Buyer"). Payment of liens reflected in the title  
report for the Property, i.e. the Deed of Trust, and property taxes, will be made through escrow.  
Costs of sale including a 6% brokerage commission to Coldwell Banker, to be shared with the  
Buyer's broker, will be satisfied through escrow according to the terms of the contract for sale. In

1 support of the motion, the Trustee represents as follows:

2       1. An Order for relief under Chapter 7 of Title 11 of the United States Code was  
3 entered herein pursuant to a voluntary petition filed by the Debtors on December 2, 2009, and  
4 Jeffry G. Locke is the duly appointed, qualified and acting trustee of the Debtors' estate.

5       2. Among the assets of the Debtors' estate is a one-third interest in a certain real  
6 property located at 31 and 33 Silvia Drive, Cazadero, California 95421 (the "Property").

7       3. Title to the Property is currently held by *The Maryrose Eager 1998 Revocable*  
8 *Trust dated May 12, 1998* ("The Maryrose Eager Trust"). See copy of excerpts of Preliminary  
9 Title Report ("PTR"), Exhibit "B" to the Declaration of Joanne LaFreniere, ("LaFreniere  
10 Declaration") filed herewith. The Debtors have a one-third interest in the Property, and the  
11 Debtors, Catherine Eager, and Matthew Eager are beneficiaries of The Maryrose Eager Trust. The  
12 Trustee has obtained a Judgment authorizing him to sell the entire Property.

13       4. The PTR indicates that the Property is subject to certain liens; see copy of the PTR,  
14 LaFreniere Decl., Exhibit B. The Trustee proposes to pay the secured creditors or respective  
15 successors or assigns, all properly charged amounts (i.e., no penalties or unreasonable fees or  
16 costs) out of escrow upon sale of the Property. *The Property is being sold "AS-IS" and subject to*  
17 *all existing conditions.* The Debtors have claimed an exemption as to their interest in the  
18 Property, which exemption will be paid by the Trustee from the bankruptcy estate's share of the  
19 proceeds of sale.

20       5. The Trustee obtained an offer for the Property from the Buyer, and a true and  
21 correct copy of the fully executed contract is attached as Exhibit "A" to the LaFreniere Decl. The  
22 Trustee requests that the purchase and sale agreement and related documents or instruments may  
23 be modified, amended or supplement by the parties without further order of the court, provided  
24 that such modification, amendment or supplement do not have a material adverse effect on the  
25 estate.

26       6. The offer is subject to overbids, which will be held prior to the expiration of the  
27 time to file an objection to the proposed sale. To the extent that a higher and better offer is  
28 obtained and accepted, the Trustee will seek approval to the highest and best offeror(s). For

details, see Notice filed herewith.

7. The Trustee believes that the sale is in the best interests of the estate and its creditors. No payments are being made on the mortgage, so the equity is eroding daily from the non-payment of the mortgage. The marketing has been made in the regular course of business, the Property was listed on multiple listing, and the overbid provision ensures that the highest and best price will be reached.

8. Time is of the essence in this transaction, as the escrow is scheduled to close October 25, 2010, and the equity in the Property is eroding, which will reduce the return to the estate from any delay in closing. Accordingly, the Trustee requests that any applicable stay under Rule 6004 (h), Fed. Rules of Bankruptcy Procedure be waived.

9. Concurrently herewith is being filed and served a notice of hearing on the proposed sale. See Notice filed herewith.

WHEREFORE the Trustee requests that an order be entered:

- a) approving the sale to the highest and best offeror; and
- b) authorizing the Trustee to:
  - pay the valid liens, closing costs and brokers' commission set forth above,
  - amend the purchase and sale agreement, if necessary, as set forth in ¶ 5 above,
  - execute all documents required to transfer title to the entire Property to the Buyer.

DATED: This 30<sup>th</sup> day of September, 2010.

## STROMSHEIM & ASSOCIATES

/s/ Joanne LaFreniere  
JOANNE LAFRENIERE, attorneys for  
JEFFRY G. LOCKE, Trustee, *In Re Eager*